

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

JAMAR DARBY,	:	
	:	Civil No. 16-3660 (KM)
Petitioner,	:	
	:	
v.	:	MEMORANDUM AND ORDER
	:	
UNITED STATES OF AMERICA,	:	
	:	
Respondent.	:	
	:	

Petitioner, Jamar Darby, filed, by counsel, a motion to vacate, set aside, or correct his sentence, under 28 U.S.C. § 2255, based on the Supreme Court's decision in *Johnson v. United States*, 135 S. Ct. 2551 (2015). On June 23, 2016, the late Hon. Jerome B. Simandle, then the District's Chief Judge, entered Standing Order 16-2 at the request of both the United States Attorney and the Federal Public Defender for this District. Under that standing order, all § 2255 motions filed in this district raising claims under *Johnson* were stayed for up to 150 days during which the parties could confer and determine whether the petitioner's challenge had merit. Under the order, this stay would be lifted only upon a successful motion by one of the parties or the expiration of the 150-day period.

Following the conclusion of the standing-order stay period, the late Hon. William H. Walls granted a joint application to stay the proceeding pending decision by the Supreme Court in *Sessions v. Dimaya*, 138 S. Ct. 1204 (2018). In the letter motion to stay this case pending *Dimaya*, which Judge Walls so-ordered, Mr. Darby's counsel stated, "After the Supreme Court issues its opinion in *Dimaya*, the parties will inform the Court what impact that decision has on Mr. Darby's motion." (DE 3, 4.) The Supreme Court decided *Dimaya* in April 2018, but there

has been no further communication from the parties in this case. On July 18, 2019, Chief Judge Freda L. Wolfson reassigned this case to me. (DE 5.)

Therefore, IT IS this 23d day of September, 2019

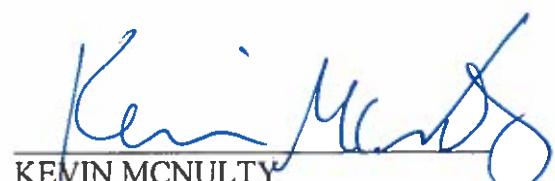
ORDERED that the Clerk of the Court shall vacate the stay of this proceeding; and it is further

ORDERED that respondent shall file a full and complete answer to the § 2255 motion within forty-five (45) days of the entry of this order; and it is further

ORDERED that respondent shall raise by way of its answer any appropriate defenses that it wishes the Court to consider, including, with respect to the asserted defenses, relevant legal arguments with citations to appropriate legal authority; the answer shall also specifically address how the Supreme Court's decision in *United States v. Davis*, 139 S. Ct. 2319 (2019), affects this proceeding; and it is further

ORDERED that the answer shall be accompanied by certified copies of all notices, opinions, documents, transcripts, or recordings of any proceedings, including all documentation that may be material to the questions raised in the Motion; in lieu of providing certified copies, however, respondent may cite to the criminal docket by referencing the ECF docket entry number and the page; and it is further

ORDERED that petitioner may file and serve a reply in support of the motion within forty-five (45) days after the answer is filed.



KEVIN MCNULTY
United States District Judge